



COMMISSIONERS COURT
COMMUNICATION

REFERENCE NUMBER 0

PAGE 1 OF 9

DATE: 3/3/2009

SUBJECT: **RECEIVE AND FILE THE AUDITOR'S REPORT OF THE JUSTICE OF THE PEACE, PRECINCT 8**

COMMISSIONERS COURT ACTION REQUESTED:

It is requested that the Commissioners Court receive and file the Auditor's Report of the Justice of the Peace, Precinct 8.

BACKGROUND:

In accordance with Local Government Code, Subchapter A, Section 115.001, Examination of Records, Section 115.002, Examination of Books and Reports, and 115.0035 Examination of Funds Collected By County Entity, the Auditor's Office reviewed Justice of the Peace, Precinct 8, operations for the 25-month period ending October 31, 2008.

FISCAL IMPACT:

There is no direct fiscal impact associated with this item.

SUBMITTED BY: Auditors Office

PREPARED BY: S Renee Tidwell
APPROVED BY:



TARRANT COUNTY

TARRANT COUNTY ADMINISTRATION BUILDING - ROOM 506
100 E. WEATHERFORD
FORT WORTH, TEXAS 76196-0103
817/884-1205
Fax 817/884-1104

S. RENEE TIDWELL, CPA
COUNTY AUDITOR
rtidwell@tarrantcounty.com

RONALD D. BERTEL, CPA
FIRST ASSISTANT COUNTY AUDITOR
rbertel@tarrantcounty.com

January 15, 2009

The Honorable District Judges
The Honorable Commissioners Court
The Honorable Sidney Thompson, Justice of the Peace, Precinct 8
Tarrant County, Texas

RE: Auditor's Report – Justice of the Peace, Precinct 8

SUMMARY

In accordance with Local Government Code, Subchapter A, Sections 115.001 Examination of Records, 115.002 Examination of Books and Reports, and 115.0035 Examination of Funds Collected By County Entity, we reviewed Tarrant County Justice of the Peace, Precinct 8 (JP8), operations for the period of 25-months ending October 31, 2008. The objective of our review was to determine whether controls were adequate to reasonably ensure that County funds were safeguarded from misuse. As a result of our review, we found opportunities where controls should be improved to safeguard County funds. Specifically, we observed the following issues that require management's attention:

- Observation 1 Procedures related to the reconciliation of Monies Held in Trust accounts should be improved.
- Observation 2 Deposits were not always made in accordance with the Code of Criminal Procedure.
- Observation 3 Credit time served receipts were entered incorrectly.
- Observation 4 Certain case files could not be located by staff.
- Observation 5 Documented policies and procedures related to collecting, depositing, and recording of receipts were not adequate.

On February 18, 2009, we discussed our observations and recommendations with the appropriate JP management.

BACKGROUND

The Justices of the Peace (JP) serve as a trial court judge for certain civil lawsuits and Class C misdemeanors, and as an administrative court judge for a variety of miscellaneous court procedures. JPs are elected from the precincts for four-year terms. JPs also act as notaries, hold inquests, and perform marriages.

JP8 collects for fees and fines, judgments, and cash bonds. JP8 deposits all monies collected into the Tarrant County depository. The Auditor's Office disburses money on behalf of JP8 upon receipt of proper documentation.

OBSERVATIONS AND RECOMMENDATIONS

Observation 1 – Procedures related to the reconciliation of Monies Held in Trust accounts should be improved.

Background

JP8 records Monies Held in Trust on the JP Mainframe System. Monies Held in Trust for civil and misdemeanor cases totaled about \$6,698.14 as of October 31, 2008. This trust is held by the Tarrant County Auditor's Office and is disbursed to the rightful owner upon request from the JP.

Observation

During our review, we found that procedures related to the reconciliation between the Monies Held in Trust accounts and the County general ledger should be improved. As of October 31, 2008, we observed the following:

1. The Civil Monies Held in Trust Report showed one case totaling \$1,227 that had been paid to the rightful owner but had not been removed from the JP Civil System. Disbursement to the owner was recorded on the County general ledger in October 1990.
2. The JP Civil System included nine cases, totaling \$2,585, and the JP Misdemeanor System included six cases, totaling \$322, that were not recorded on the County general ledger implying that these cases had been disbursed to the rightful owners. Since these cases were dated between 1989 and 2002, we could not conclusively verify the disbursement to the owners. JP staff does not maintain documentation of check requests sent to the Auditor's Office for disbursement of these trust funds.
3. The County's general ledger liability account number (208000) used to record JP8 Monies Held in Trust has a debit balance of \$644.70. A liability account normally has a credit balance. A debit balance implies overpayment of liabilities or an accounts receivable.

These conditions occurred because staff did not research and dispose differences between the JP Mainframe System and the County's general ledger. Furthermore, staff had not recorded disbursements made to trustees on the appropriate JP system. As a result, differences between the JP systems and the County's general ledger were not identified and resolved in a timely manner.

Recommendations

We recommend that the JP implement procedures to ensure that a monthly reconciliation is performed of the Monies Held in Trust accounts as recorded on the JP system with the records maintained by the Auditor, including:

1. Obtain the detail of the Monies Held in Trust accounts as recorded on the County's general ledger from the Auditor's Office;
2. Research all account differences, including documentation of the research and disposition of the differences;
3. Obtain management's approval of the monthly reconciliation, evidenced by the date of the approval and the manager's initials; and
4. Provide a copy of the completed monthly reconciliation to the Auditor's Office.

Furthermore, JP staff should:

5. Record the disbursement in the amount of \$1,227 on the JP Civil System and remove the case from the Civil Monies Held in Trust Report;
6. Clear the cases off the civil and misdemeanor Monies Held in Trust Reports that are no longer recorded on the County general ledger. Since we could not conclusively determine whether disbursement had been made for these cases, the JP should maintain detailed records for each case, including the docket number, case date, payee, and amount held in trust. In addition, the system case comments should be updated regarding the removal of the cases from the JP systems and the Monies Held in Trust Report indicating where to find more information regarding the case in the event that the owner comes forward and claims that they haven't received payment; and
7. Consult with Risk Management for resolution of the \$644.70 debit balance.

Management's Position

Staff will obtain the balances of the Monies Held in Trust accounts as recorded on the County's general ledger from the Auditor's Office. All account differences will be researched and disposed. Upon my approval of the reconciliation, a copy will be provided to the Auditor's Office. Furthermore, JP staff will consult with Risk Management regarding the debit balance.

Observation 2 – Deposits were not always made in accordance with the Code of Criminal Procedure.

Background

The Code of Criminal Procedure, Article 103.004, states:

...an officer who collects recognizances, bail bonds, fines, forfeitures, judgments, jury fees, and other obligations recovered in the name of the state under any provision of this title shall deposit the money in the county treasury not later than the next regular business day after the date that the money is collected. If it is not possible for the officer to deposit the money in the county treasury by that date, the officer shall deposit the money in the county treasury as soon as possible, but not later than the third regular business day after the date that the money is collected.

Observation

During our review, we found that deposits were not always made in accordance with the Code of Criminal Procedure. Specifically, we tested 122 cash receipts and found that 7, about 6%, were deposited between 4 and 5 business days. Staff stated that this condition occurred because the armored truck service did not always pick up the deposits on a daily basis. Untimely deposits increase the risk of loss, theft, or misappropriation of funds. Upon our recommendation, the JP implemented procedures whereby deposits are picked up by the armored car service daily. We confirmed that all deposits made during October 2008 were made in accordance with the Code of Criminal Procedure, Article 103.004. No further recommendation is required.

Observation 3 – Credit Time Served receipts were not processed correctly.

Background

Credit Time Served (CTS) receipts are issued by staff via jail time or community service to discharge a defendant of all or part of the fine or costs. Receipts issued for jail time served are authorized by Code of Criminal Procedure, Article 45.048, Discharged from Jail. Receipts issued for community service are authorized by Code of Criminal Procedure, Article 45.049, Community Service in Satisfaction of Fine or Costs.

Observation

We identified five CTS receipts that were processed during our review period. Of these five CTS receipts, we found four that were not processed correctly. Specifically:

- Staff erroneously applied credit for community service in lieu of payment from the defendant for one case.

- According to the case docket, two cases were incorrectly classified as jail time served (T) instead of community service performed (Z).
- One case did not provide adequate documentation to determine whether the correct payment type was entered onto the system.

Since JP staff has the ability to accept payments from defendants and also make system adjustments by issuing CTS receipts to reduce all or part of the fees and fines due the County, unauthorized and inappropriate transactions may not be prevented or detected. This issue was previously reported to the Commissioners Court in January 2009.

Recommendations

We recommend JP8 develop written procedures regarding processing CTS receipts for jail time and community service. Until policies and procedures are finalized, we recommend the staff be trained to ensure the proper payment type code, T or Z, is entered for all CTS receipts to prevent future errors.

Management's Position

The JP stated that written procedures would be developed with regard to the processing of CTS receipts. He also stated that he would ensure that staff is properly trained to understand the different payment type codes.

Observation 4 – Staff could not locate certain criminal dockets.

Background

Section 203.002 (6) of the Local Government Records Act states, in part, that an elected public officer shall:

- (6) *identify and take adequate steps to protect the essential records of the office.*

Furthermore, the Texas State Library and Archives Commission, *Retention Schedule for Records of Justice and Municipal Courts*, provides the following retention guidelines relative to civil and criminal (misdemeanor) cases:

- a) Civil Docket (including small claims and scire facias). RETENTION: PERMANENT.*
- b) Criminal docket (including traffic offenses and violations of municipal ordinances: RETENTION: 5 years*

Observation

During our review, staff could not locate two out of 49 criminal dockets that we had requested for testing. Although the two cases were filed in April 1994 and March 1998, we noted that the last transaction dates were November and December 2006, respectively. According to JP8 staff, both case files had been sent to the Department of Records and Microfilm Services (Records Services). However, we noted that JP8 does not retain a detail listing of the contents of the boxes sent to Records Services. Rather, they record a range of docket numbers on the exterior of the box. For example, the exterior label of the box may show files M1 through M10. However, only files M1, M4, and M8 may actually be contained in the box.

This condition occurred because staff had not implemented procedures to maintain a detailed listing of all case file numbers in each box sent to Records Services. Furthermore, when a file has to be retrieved from Records Services, the file could be re-filed in a different box at a later date. As a result, essential records may not be located. Furthermore, we could not verify that records were retained in accordance with requirements mandated by the Texas State Library and Archives Commission, *Retention Schedule for Records of Justice and Municipal Courts*.

Recommendations

We recommend compliance with Section 203.002 of the Local Government Records Act and Texas State Library and Archives Commission, *Retention Schedule for Records of Justice and Municipal Courts*. Specifically, detailed records should be maintained describing case files sent to the Records Services. These records should include the specific case file numbers and the date sent to Records Services. In the event that a file needs to be retrieved from Records Services, records should be updated accordingly. Furthermore, records should be maintained showing the retention period and the date of destruction for the criminal case files.

Management's Position

The JP stated that he would ensure procedures are implemented whereby detailed records are maintained showing the case file numbers and the dates the files are sent to Records Services. Furthermore, these records will be updated when a file is retrieved from Records Services.

Observation 5 – Documented policies and procedures related to collecting, depositing, and recording of receipts were not adequate.

Background

Written policies and procedures are a critical element of a well-defined control environment. A good system of internal control helps to ensure such critical items as compliance with applicable laws and regulations, generation of relevant and reliable data, the safeguarding of assets, and the economical and efficient use of resources. Furthermore, established policies and procedures provide guidance and training to ensure consistent performance at the required level of quality. Conversely, an increased risk for errors and inconsistencies occurs without documented policies and procedures.

Observation

During our review, we found that policies and procedures related to collecting, depositing, and recording of receipts were not adequate. This occurred because management had not considered developing documented procedures a priority. Written policies and procedures help staff conduct business according to applicable regulations and guidelines, manage operations efficiently and effectively, and provide a tool for management to measure staff performance.

Recommendation

During our review, we verbally communicated the need for documented policies and procedures. On November 26, 2008, JP8 provided policies and procedures currently under development. Although JP8 has made significant progress, we recommend that management continue to develop a comprehensive policies and procedures manual that address all internal processes and functions regarding the collecting, depositing, and recording of receipts.

Management's Position

The JP stated that he would ensure that staff continues to develop a comprehensive policies and procedures manual.

OBJECTIVE AND METHODOLOGY

The objective of our review was to determine whether controls were adequate to reasonably ensure that County funds were safeguarded from misuse. Internal control is broadly defined as a process designed to provide reasonable, not absolute, assurance regarding the achievement of objectives such as the safeguarding of assets, reliability of financial reporting, and compliance with applicable laws and regulations. The JP, in the role of management, is responsible for the implementation and application of effective internal controls. It is our responsibility to review and assess the effectiveness of those controls. Because of the inherent limitations in any internal control structure, errors or irregularities may occur and may not be detected.

During our review, we gained an understanding of the internal controls over the financial systems through inquiry of appropriate personnel, observation of the operations, inspection of relevant documentation, and other procedures that we considered necessary. We also performed tests of receipts to determine whether controls were adequate to reasonably ensure that County funds were safeguarded from misuse. We believe that our review provides a reasonable basis for our conclusion.

CLOSING REMARKS

We wish to thank the JP and his staff for their cooperation in the completion of this project. We also appreciate his prompt attention to our recommendations.

Very truly,



S. Renee Tidwell, CPA
County Auditor

Audit Team:

Kim Trussell, Audit Manager
Larry Baum, Senior Internal Auditor
Julie Hillhouse, Senior Internal Auditor
Angela Tran-Le, Internal Auditor

Distribution:

Lisa Woodard, Justice Court Manager
Suzanne McKenzie, Financial Accounting Manager
Brett Self, Investment/Revenue Accountant
Rachael Bernd, Internal Auditor